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SUPREME COURT OF THE STATE OF WASHINGTON

STEPHEN K. EUGSTER,

Appellant,

vs.

STATE OF WASHINGTON; WASHINGTON COURT
OF APPEALS and DIVISIONS I, II and III, thereof,

Respondents,

BRIEF OF RESPONDENTS

ROBERT M. MCKENNA
Attorney General

James K. Pharris, WSBA #5313
Anne E. Egeler, WSBA #20258
Deputy Solicitors General
PO Box 40100
Olympia, WA 98504-0100
360-664-3027

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INTRODUCTION

This is a challenge to the manner in which judges of the Washington State Court of Appeals are elected, based on the notion that article I, section 19 of the Washington State Constitution requires judges to be elected from constituencies that are equal in population. The notion is incorrect.

STATEMENT OF ISSUE

Article I, § 19, of the Washington State Constitution provides that “[a]ll Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” Are the statutes providing for the manner of election of Washington Court of Appeals judges inconsistent with this language?

STATEMENT OF FACTS

There are no facts at issue in this case, which is a facial challenge to the constitutionality of the statutes providing how Court of Appeals judges are elected in Washington.¹ The Court of Appeals was created through the adoption of Amendment 50 to the state constitution in 1967.

¹ Appellant Eugster has included in the Clerks Papers the Declaration he filed in support of his summary judgment motion below. CP 70-89. This Declaration consists largely of assertions and theories concerning the law rather than factual material. Conclusions of law and inadmissible evidence included in a declaration are surplusage and should be disregarded. *Henry v. St. Regis Paper Co.*, 55 Wn.2d 148, 151, 346 P.2d 692 (1959). The Respondents object to the following paragraphs in the Eugster Declaration: 6-8, 15-17, 20, and 23-65. These should be treated as legal argument and not as “facts,” as should any other material that is a legal conclusion or a statement of opinion.

This amendment, codified as article IV, section 30, provides that “judicial power is vested in a court of appeals, which shall be established by statute.”² Const. art. IV, § 30. The administration and procedures of the court of appeals “shall be as provided by rules issued by the supreme court.” *Id.* Of special significance for this case is the following language:

[t]he number, *manner of election*, compensation, terms of office, removal and retirement of judges of the court of appeals shall be as provided by statute.

Id. at § 30(4) (italics added).

The legislature implemented article IV, section 30, through the enactment of statutes now codified primarily in RCW 2.06.³ RCW 2.06.010 establishes the “court of appeals as a court of record.” The court of appeals is a single court, with three divisions. RCW 2.06.020. Each division of the court has judges elected from geographical districts, each district consists of one or more counties, and each district elects one or more judges to the court. *Id.*⁴ The statutes provide that judges in the court will sit in panels of three judges and decisions will be rendered by not less

² The full text of article IV, section 30, is Appendix A.

³ RCW 2.06 was originally enacted in Laws of 1969, ex. sess., ch. 221, and has been amended from time to time.

⁴ The full text of RCW 2.06.020 is Appendix B. The total number of judges has been increased several times since the creation of the court of appeals, and the number elected from specific districts has also been increased, reflecting the gradual increase in the size of the court. Laws of 1977, Ex. Sess., ch. 49 § 1; Laws of 1989, ch. 328, § 10; Laws of 1999, ch. 75 § 1; Laws of 2009, ch. 77, § 2.

than a majority of the panel. RCW 2.06.040. Judges of the court “may sit in other divisions and causes may be transferred between divisions, as directed by written order of the chief justice.” *Id.*

The appellate jurisdiction of the court of appeals is described in the Rules of Appellate Procedure (RAP). By court rule, appeal of a trial court decision is filed with a specific division of the court of appeals, depending on the county in which the trial court is located. RAP 4.1. Once filed, cases may be transferred between divisions by the supreme court or by the court of appeals. RAP 4.4. Thus, although the court of appeals functions largely through its separate divisions, it remains a single court and there is flexibility to move cases from one division to another when circumstances require.

As noted earlier, the judges of the court of appeals are elected from districts set forth in statute, each district comprising of one or more counties. The number of judges elected from each district is also set forth in statute. RCW 2.06.020. Although each district elects a number of judges roughly proportionate to the population of the district, the “population per judge” of the districts is not mathematically equal. CP 84-86.

In this case, Appellant Eugster challenged these statutes in a case brought in Thurston County Superior Court, arguing that article 1, section

19 of the constitution requires that judges be elected from districts that are mathematically equal in population, and that RCW 2.06.020 is therefore facially invalid. The Thurston County Superior Court granted summary judgment in favor of the State and against Eugster. CP 118-19. This appeal followed.

ARGUMENT

A. Consistent With Article I, Section 19, The Laws Governing Election Of Court Of Appeals Judges Do Not Implicate The Right Of Any Citizen Or Group To Vote.

Article I, section 19 of the Washington Constitution provides that “[a]ll Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” This Court has observed that this provision is “more protective” than the federal constitution. *Foster v. Sunnyside Valley Irrig. Dist.*, 102 Wn.2d 395, 404, 687 P.2d 841 (1984).⁵

Article I, section 19 has been used by this Court to assess situations where the right of suffrage, or a particular group’s right to participate in an election, is at issue. For example, in *Foster*, the court

⁵ In fact, this section of the state constitution has no exact analogue in the U.S. Constitution. Appellant Eugster’s extensive discussion of *State v. Gunwall*, 106 Wn.2d 54, 720 P.2d 808 (1986), (Br. App. at 20-35) is not helpful. The parties to this case agree that the constitutionality of RCW 2.06 under article I, section 19, presents a different question from the constitutionality of the same statutes under the equal protection provisions of the U.S. Constitution. While the question might be different, though, the answer is the same—the manner of electing court of appeals judges is consistent with both the state and federal constitutions.

considered whether the right of suffrage was improperly impaired by a contract that denied the right to vote to certain landowners in an irrigation district. The court found the arrangement unconstitutional. *Foster*, 102 Wn.2d at 404. In the early case of *Malim v. Benthien*, 114 Wash. 533, 196 P. 7 (1921), the court invalidated a statute authorizing a diking district to impose assessments on property outside the district's boundaries. More recently, in *City of Seattle v. State*, 103 Wn.2d 663, 694 P.2d 641 (1985), the court struck down a statute allowing property owners in certain areas of certain cities to block other voters from holding an annexation election. These appear to be the only examples where the supreme court has granted relief based on article I, section 19.

The Court has been more likely to reject than to accept claims of invalidity under article I, section 19. For instance, the Court found no violation of this provision in statutes providing for a special election on funding a football stadium. *Brower v. State*, 137 Wn.2d 44, 969 P.2d 42 (1998), *cert. denied* 526 U.S. 1088, 119 S. Ct. 1498, 143 L. Ed. 2d 652 (1999); *see also, In re Coday*, 156 Wn.2d 485, 130 P.3d 809, *cert. denied* 549 U.S. 976, 127 S. Ct. 444, 166 L. Ed. 2d 309 (2006) (upholding provisions concerning conduct of election recounts); *Grant Cy. Fire Prot. Dist. 5 v. City of Moses Lake*, 145 Wn.2d 702, 42 P.3d 394 (2002), *vacated in part on rehearing* 150 Wn.2d 791, 83 P.3d 419 (2004)

(upholding property-owner petition method of annexation as alternative to election); *Granite Falls Library Capital Facility Area v. Taxpayers*, 134 Wn.2d 825, 953 P.2d 1150 (1998) (upholding act providing for sale of bonds to finance library facilities); *Carstens v. PUD 1*, 8 Wn.2d 136, 111 P.2d 583, *cert. denied*, 314 U.S. 667, 62 S. Ct. 128, 86 L. Ed. 533 (1941) (upholding law permitting condemnation of property outside district boundaries without a vote of the residents of the area to be condemned).

The courts have applied article I, section 19 where some category of voters is unjustly excluded from participating in an election. This is not such a case. Every Washington citizen is entitled to participate in the election of one or more judges to the court of appeals. RCW 2.06.020. There is no category of voter excluded from participation in such elections. The statutes providing for the election of court of appeals judges do not implicate the right of any citizen or group of citizens to vote, and are consistent with article I, section 19.

B. The Constitution Specifically Allows The Legislature To Determine By Statute How Court Of Appeals Judges Are Elected.

In providing for the creation of a court of appeals, the state constitution expressly states that “[t]he number, manner of election, compensation, terms of office, removal and retirement of judges of the court of appeals shall be as provided by statute.” Const. art. IV, § 30(4).

At the very minimum, this language grants to the legislature broad discretion in determining how the judges of the court of appeals will be elected. It is at least arguable that this explicit language precludes challenges to the manner of election of court of appeals judges based on provisions such as article I, section 19, which is both more general and earlier in its enactment than article IV, section 30.⁶

It is not necessary to hypothesize whether there are outer limits on the legislature's constitutional authority to determine the manner in which court of appeals judges are elected. In providing for the election of court of appeals judges, the legislature has not chosen a system that includes all of the state's voters in elections for judges of the appeals court. No group of voters is "fenced out" from participation, nor is the system "skewed" in favor of some voters at the expense of others. The "free and equal elections" provisions are fully satisfied.

The legislature has clearly balanced a number of factors in establishing the court of appeals. Rather than establish a court elected statewide (like the supreme court), the legislature chose to organize the work of the court of appeals by geographical division. Thus, the

⁶ Although this Court has not specifically addressed the subject, other courts have ruled that where two constitutional provisions conflict, the later enacted will prevail, as the most recent expression of the will of the people. *See, e.g., Seminole Tribe of Florida v. Florida*, 517 U.S. 44, 116 S. Ct. 1114, 134 L. Ed. 2d 252 (1996); *Crawford v. Huntington Beach Union High Sch. Dist.*, 98 Cal. App. 4th 1275, 121 Cal. Rptr. 2d 96 (2002); *Denish v. Johnson*, 121 N.M. 280, 910 P.2d 914 (1996).

intermediate court judges typically handle cases from geographical areas that are less than statewide but broader than a single county.

In determining how court of appeals judges are elected, the legislature has devised a system that (1) assures geographical diversity among the judges of the court, (2) allows the voters in every county to participate in the election of one or more judges, and (3) maintains districts comprised of whole counties. While districts composed of whole counties cannot be precisely equal in population, the distribution of the judges shows there is a strong proportionality between the population of a given district and the number of judges elected from that district. RCW 2.06.020. Finally, the pattern chosen allows for adjustments in the number of judges based on the workload, as well as on the populations of the divisions. From time to time, the legislature has adjusted the number of judges in each division, and the number of judges elected by each district within a division. Appellant has offered no evidence that the allocation of judges reflects any intent, or has any effect, of disenfranchising or disadvantaging any region or any identifiable group of voters, or in any way adversely affects the exercise of voting rights.

Given that the constitution specifically assigns the legislature the authority to determine how court of appeals judges are elected, the court should not lightly ignore the legislature's equitable policy choices,

especially based on a reading of article I, section 19, that is unsupported by any case law or other authority. The legislature's policy choices here are rational and sound, and do not raise "free and equal" election issues.

C. Neither The Federal Courts Nor This Court Have Held That The Election Of Judges Must Be Governed By "One Person, One Vote" Principles.

With respect to elections for representatives in Congress, the U.S. Supreme Court decided in *Reynolds v. Sims*, 377 U.S. 533, 84 S. Ct. 1362, 12 L. Ed. 2d 506 (1964), that representatives must be elected from districts that are equal in population, based on the equal protection provisions in the U.S. Constitution. The Court later extended this principle to elections of local government bodies that are legislative in nature, such as county commissioners. *Avery v. Midland Cy., Texas*, 390 U.S. 474, 88 S. Ct. 1114, 20 L. Ed. 2d 45 (1968). Following these precedents, this Court invalidated a statute that permitted counties consisting entirely of islands to adopt a "whole island" scheme of drawing county commissioner districts without regard to equality of population. *Story v. Anderson*, 93 Wn.2d 546, 611 P.2d 764 (1980). The court based its decision solely on the federal case law and did not cite or mention article I, section 19 of the state constitution.⁷

⁷ County commissioners serve as the legislative authority for county government, as well as exercising a variety of administrative functions. RCW 36.32.120.

However, the U.S. Supreme Court decided nearly fifty years ago that the U.S. Constitution does not require judges to be elected on a “one person, one vote” basis. In *Wells v. Edwards*, 409 U.S. 1095, 93 S. Ct. 904, 34 L. Ed. 2d 679 (1973), the Court affirmed a three-judge district court decision declining to apply “one person, one vote” to judicial elections. The opinion of the trial court is instructive because the Supreme Court summarily affirmed it. The trial court dealt with a challenge to the way the members of the Louisiana Supreme Court were elected. *Wells v. Edwards*, 347 F. Supp. 453 (M.D. La. 1972). Louisiana Supreme Court justices are not elected statewide, but from districts which are not substantially equal in population. The trial court declined to apply “one person, one vote” to judicial elections, citing language in *Hadley v. Junior College District*, 397 U.S. 50, 90 S. Ct. 791, 25 L. Ed. 2d 45 (1970), indicating that this principle would not apply to elections for offices which do not perform legislative or administrative functions. *Hadley*, as discussed in *Wells*, 347 F. Supp. at 454-55. The court quoted several earlier federal trial court decisions reaching the same conclusion, notably: “Judges do not represent people, they serve people.” *Wells* 347 F. Supp. at 455, quoting *Buchanan v. Rhodes*, 249 F. Supp. 860, 865 (N.D. Ohio 1966), *appeal dismissed*, 385 U.S. 3, 87 S. Ct. 33, 17 L. Ed. 2d. 3 (1966), *judgment vacated on other grounds*, 400 F.2d 882 (6th Cir. 1968).

Other trial courts have expanded on the principle that judges are not “representatives” of the electorate. One court notes that the “state judiciary, unlike the legislature, is not the organ responsible for achieving representative government.” *New York State Ass’n of Trial Lawyers v. Rockefeller*, 267 F. Supp. 148, 153 (S.D.N.Y. 1967). Another observes that “judges and prosecutors are not representatives in the same sense as are legislators or the executive. Their function is to administer the law, not to espouse the cause of a particular constituency.” *Stokes v. Fortson*, 234 F. Supp. 575, 577 (N.D. Ga. 1964).⁸ The federal courts continue to apply *Wells* in rejecting “one person, one vote” challenges to the election of judges. *E.g., Field v. State*, 255 F. Supp. 2d 708, 711-13 (E.D. Mich. 2003).

Appellant Eugster suggests that *Wells* is no longer good law, citing *Chisom v. Roemer*, 501 U.S. 380, 111 S. Ct. 2354, 115 L. Ed. 2d 348 (1991) and *Republican Party v. White*, 536 U.S. 765, 122 S. Ct. 2528, 153 L. Ed. 2d 694 (2002). *Chisom* and *White* are easily distinguished from *Wells*, and the language of neither opinion suggests that the holding in *Wells* is in danger of reversal. In *Chisom*, the Court addressed solely a

⁸ These points are eloquently discussed in Kathryn Abrams, *Relationships of Representation in Voting Rights Act Jurisprudence*, 71 Tex. L. Rev. 1409, 1420 (1993). Abrams points out that, contrary to “representing” the biases and opinions of their constituents, judges are often called on to disregard these factors in order to do justice in a particular case. Thus, it is problematic to suggest that an elected judge “represents” her constituency on the court.

question of statutory construction of the federal Voting Rights Act in determining that judicial elections may not deny the right to vote on account of race. The Court specifically stated that *Wells* was not applicable to the statutory question at issue in *Chisom*. *Chisom*, 501 U.S. at 381-82. The question in *White* was whether the First Amendment was violated by a state canon on judicial conduct which prohibited judicial candidates from stating their views on legal and political issues. Since the case had absolutely nothing to do with citizens' right to vote, *Wells* was never discussed or cited by the Court.

The Appellant cites only one case in which a court has struck down a state statute concerning the election of judges, based on "one person, one vote" principles. In *Blankenship v. Bartlett*, 681 S.E.2d 759 (N.C. 2009), the Supreme Court of North Carolina considered a state statute dividing Wake County into four districts for purposes of electing superior court judges, two districts electing two judges each and two others electing one judge each. The districts were grossly unequal in population and even more unequal in population "per judge." The majority of the court (with a strong dissent from three of the court's seven members) concluded that the challengers had stated a prima facie claim under the equal protection provisions in the state constitution.

Blankenship, interpreting the laws of another state, is of course not binding on the courts of this state. The statute challenged in *Blankenship* involved the election of trial court judges by subdivisions of a single county, in which the elected judges served the whole county, with no evident rationale for the separate divisions or for a grossly disparate voting scheme. Even there, the North Carolina court did not simply invalidate the scheme, but applied “heightened scrutiny” and remanded the case for a trial court determination whether the state could demonstrate significant interests in the election system.

The principles laid down in the federal cases apply just as well to a “free and equal elections” analysis under the state constitution. Judges serve the people by adjudicating disputes. They do not “represent” the people in the sense that legislators or executive officers represent a constituency. The workload of a court depends upon the number and complexity of the court’s caseload, and is not necessarily proportional to the population of the area served by the court. Thus, the legislature logically can consider workload and other factors besides strict population in deciding how many court of appeals judges will be elected, and which judges will be elected by which voters.

D. Appellant Has Not Properly Raised Any Challenge To The Establishment Of Separate Divisions In The Court Of Appeals, Or To The Manner In Which Cases Are Assigned To Panels.

Appellant Eugster has asked only for the broad relief of declaring invalid the current statutes providing for the election of court of appeals judges, and it is not clear which element of the current statutory scheme is asserted to be unconstitutional. For instance, Appellant includes a table at page 7 of his brief showing that the populations of the three divisions of the court of appeals vary considerably, with Division I including more than twice the population of Division III.⁹ Is he suggesting that the three divisions should be equal in population, or that the use of separate divisions is in itself problematical? He offers no specific argument on this point.

The same table shows the “population per judge” of each division, and shows that Division I and Division III have roughly the same population per judge, while the population per judge of Division II is somewhat higher. Is the Appellant suggesting that Division II should have more judges, or that the other two divisions should have fewer, so that the “population per judge” is the same for each division? Again, his brief includes no discussion on this point.

⁹ These numbers are included in several tables attached as Appendix A to the Appellant’s brief.

The table also shows that the “population per judge” within each division varies by the districts from which the judges are elected. Is the Appellant suggesting that “one person, one vote” should be applied separately to each of the three divisions, so that the judges within a particular division are elected from districts that are mathematically equal in population?¹⁰ Or could the number of judges elected by each division be reallocated to reduce the disparity in population? Appellant is silent on these points.

To confuse matters even more, the Appellant includes an extended discussion on an unrelated issue: the assignment of cases to panels within the divisions. Br. App. at 14-17. He observes that “[p]anel[s] are often made up of judges with no electoral connection to cases on appeal.” *Id.* at 14. His apparent objection is to cases that do not “come to the court or to a panel from a superior court within the district from which the judge is elected.” *Id.* at 15. The implication of this discussion is that, for instance, a case appealed from Spokane County must be heard by a panel which

¹⁰ To achieve mathematical equality, a number of counties would have to be divided among two or more districts, greatly complicating the process of drawing the lines. Alternatively, all of the judges within a division could be elected at large from the entire division, substantially reducing the geographical distribution of judges within each division. For instance, given that well over half the voters in Division I live in King County, an “at large” election could produce a division of the court composed entirely of judges from one county.

includes one or more judges elected from the district that includes Spokane County.

Appellant cites a single case for this surprising proposition: *City of Spokane v. Rothwell*, 141 Wn. App. 680, 170 P.3d 1205 (2007). In *Rothwell*, two criminal defendants challenged their convictions on the theory that they had been tried in the Spokane Municipal Court by a judge of the Spokane District Court hearing municipal cases by designation. The Court of Appeals concluded that only duly elected municipal court judges could sit in the municipal court, and reversed the judgments on the theory that the case had been tried by a judge who had no authority to serve. This judgment was reversed by this Court in *City of Spokane v. Rothwell*, 166 Wn.2d 872, 215 P.3d 162 (2009), in an opinion holding that the district court judges had full authority to hear cases in the municipal court.¹¹ *Rothwell* stands for no general principle to the effect that a litigant, even a criminal defendant, has a right to be tried by a judge with an “electoral connection” to the litigant.

There simply is no legal principle, and never has been, establishing that any party is entitled to litigate in courts with which the party has an

¹¹ Appellant mistakenly characterizes the supreme court decision in *Rothwell* as a reversal “on other grounds.” Br. App. at 18 n.23. Neither the court of appeals nor the supreme court opinion is based on article I, section 19, or any other constitutional ground. Both opinions were based on the interpretation of the statutes providing for the creation of municipal courts.

“electoral connection.” In litigation between A and B, if A and B live in different counties, their case will be tried to a judge for whom at least one of the litigants (possibly both) had no opportunity to vote. The “electoral connection” principle, if adopted, would call into question statutes and court rules concerning jurisdiction and venue, the use of visiting and pro tempore judges (at either the trial or appellate stage of a case), and transfers of cases between courts.¹² Certainly article I, section 19, has never been interpreted to require an “electoral connection” between a citizen and a judge hearing a case to which the citizen is a party. Appellant’s discussion of the composition of panels in the court of appeals, with attendant statistical material, has no connection to the case and should be disregarded.

Aside from basing his argument on a constitutional provision that simply does not fit the situation, Appellant Eugster offers no focused analysis showing how the election of court of appeals judges is unconstitutional, or what bad consequences are asserted to flow from the implementation of the statutes under challenge. To the extent he identifies “problems” with the way appellate cases are handled, he does not even

¹² Another implication of Appellant’s argument is that the courts of one state could not adjudicate disputes involving a citizen of another state (or even another country), given that the out-of-state party had no opportunity to participate in the election of the members of the court hearing the dispute. Following such a principle would render our judicial system unworkable.

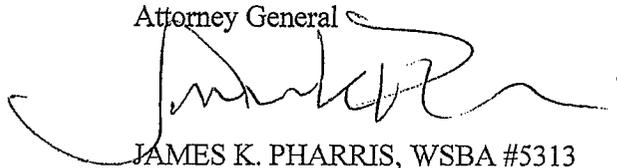
show how granting his requested relief would address those asserted problems. His challenge should be rejected.

CONCLUSION

For the reasons stated above, the Court should reject Appellant's arguments and should affirm the Superior Court decision granting judgment in favor of the Respondents.

RESPECTFULLY SUBMITTED this 23rd day of June, 2010.

ROBERT M. MCKENNA
Attorney General



JAMES K. PHARRIS, WSBA #5313



ANNE E. EGELER, WSBA ##20258
Deputy Solicitors General
PO Box 40100
Olympia, WA 98504-0100
(360) 664-3027

CERTIFICATE OF SERVICE

I certify, under penalty of perjury under the laws of the state of Washington, that on this date I have caused a true and correct copy of Brief of Respondents to be served on the following via e-mail and First Class United States Mail, postage prepaid:

Stephen Eugster
2418 W. Pacific Avenue
Spokane, WA 99201
eugster@steveeugster.com


Becky Waldron
Legal Assistant

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**ARTICLE IV
THE JUDICIARY**

SECTION 30 COURT OF APPEALS. (1) *Authorization.* In addition to the courts authorized in section 1 of this article, judicial power is vested in a court of appeals, which shall be established by statute.

(2) *Jurisdiction.* The jurisdiction of the court of appeals shall be as provided by statute or by rules authorized by statute.

(3) *Review of Superior Court.* Superior court actions may be reviewed by the court of appeals or by the supreme court as provided by statute or by rule authorized by statute.

(4) *Judges.* The number, manner of election, compensation, terms of office, removal and retirement of judges of the court of appeals shall be as provided by statute.

(5) *Administration and Procedure.* The administration and procedures of the court of appeals shall be as provided by rules issued by the supreme court.

(6) *Conflicts.* The provisions of this section shall supersede any conflicting provisions in prior sections of this article. [**AMENDMENT 50**, 1967 Senate Joint Resolution No. 6; see 1969 p 2975. Approved November 5, 1968.]

Reviser's note: This section which was adopted as Sec. 29 is herein renumbered Sec. 30 to avoid confusion with Sec. 29, supra.

The court shall have three divisions, one of which shall be headquartered in Seattle, one of which shall be headquartered in Spokane, and one of which shall be headquartered in Tacoma:

(1) The first division shall have twelve judges from three districts, as follows:

(a) District 1 shall consist of King county and shall have eight judges;

(b) District 2 shall consist of Snohomish county and shall have two judges; and

(c) District 3 shall consist of Island, San Juan, Skagit, and Whatcom counties and shall have two judges.

(2) The second division shall have eight judges from the following districts:

(a) District 1 shall consist of Pierce county and shall have three judges;

(b) District 2 shall consist of Clallam, Grays Harbor, Jefferson, Kitsap, Mason, and Thurston counties and shall have three judges;

(c) District 3 shall consist of Clark, Cowlitz, Lewis, Pacific, Skamania, and Wahklakum counties and shall have two judges.

(3) The third division shall have five judges from the following districts:

(a) District 1 shall consist of Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, and Stevens counties and shall have two judges;

(b) District 2 shall consist of Adams, Asotin, Benton, Columbia, Franklin, Garfield, Grant, Walla Walla, and Whitman counties and shall have one judge;

(c) District 3 shall consist of Chelan, Douglas, Kittitas, Klickitat, and Yakima counties and shall have two judges.

[2009 c 77 § 1; 1999 c 75 § 1; 1993 c 420 § 1; 1989 c 328 § 10; 1977 ex.s. c 49 § 1; 1969 ex.s. c 221 § 2.]

Notes:

Rules of court: Cf. RAP 4.1(b).

Judicial position contingent on funding -- 2009 c 77: "The judicial position created by *section 1, chapter 77, Laws of 2009 shall become effective only if that position is specifically funded and is referenced by division and district in an omnibus appropriations act." [2009 c 77 § 2.]

***Reviser's note:** The judicial position created by section 1, chapter 77, Laws of 2009 was not referenced in a 2009 omnibus appropriations act.

Effective date -- 1993 c 420: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 15, 1993]." [1993 c 420 § 3.]

Intent -- 1989 c 328: See note following RCW 2.08.061.

Appointments to positions created by the amendment to this section by 1977 ex.s. c 49 § 1: RCW 2.06.075.

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Cc: Pharris, James (ATG)
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From: Waldron, Becky (ATG) [mailto:BeckyW@ATG.WA.GOV]
Sent: Wednesday, June 23, 2010 10:49 AM
To: OFFICE RECEPTIONIST, CLERK; Stephen K. Eugster
Cc: Pharris, James (ATG)
Subject: Eugster v. State, #84380-5 - Brief of Respondents

OBO James Pharris: Attached for filing is our Brief of Respondents in the above case.